

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GRETCHEN S. STUART, M.D., et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	1:11-CV-804
	)	
RALPH LOOMIS, M.D., et al.,	)	
	)	
Defendants.	)	

**ORDER MODIFYING JULY 9, 2013 ORDER**

This matter is before the Court upon Plaintiffs' Motion to Modify the Court's July 9, 2013, Order. (Doc. 150.) Previously, the parties jointly represented to the Court that there were no disputed questions of material fact, and the parties confirmed this to the Court in a conference call on August 1, at which time the parties indicated no serious difficulties in complying with the Court's July 9 Order. Despite this, the parties are now, at the eleventh hour, indicating that they cannot agree.

The Court does not believe it is impossible for the parties to agree on even one undisputed fact. The Court will extend the deadline for compliance with its July 9 Order to give the parties additional time to confer. While the Court cannot and will not force the parties to agree to everything, nor does the Court expect such complete agreement, the Court does require the parties to spend as much time as necessary to set forth the facts as to which they agree, however small in number they may be, and to narrow and focus

the areas of disagreement. The Court expects the parties to spend significant periods of time actually speaking to each other to accomplish these purposes.

The Court will modify its previous order to allow each party to submit a list of what it contends are the undisputed material facts, with citation to the record, similar in form to Doc. 152-1 but without parentheticals and with a docket number provided for each citation; to require the parties to provide a list summarizing objections to the other side's list; to give the parties a short extension to comply with the July 9 Order; and to allow the parties to submit additional lists, as may be necessary and appropriate, to the Court as part of the Joint Submission. By way of example only, the parties could include as an attachment to the Joint Submission a list of what the plaintiffs contend are undisputed material facts but which the defendants contend are legal conclusions and/or a list of what the plaintiffs contend are undisputed material facts but which the defendants contend are disputed but immaterial. To the extent there are any disagreements about whether a fact is disputed, the Submission attachment shall contain citations to the record. At this point, the Court does not require and does not authorize additional briefing or legal argument.

IT IS HEREBY **ORDERED** that the Plaintiffs' motion is granted in part. The Court's July 9, 2013, Order is hereby modified as follows:

1. The deadline for the Joint Submission of Material Facts is extended to 3 p.m. August 22, 2013;
2. The Joint Submission may contain as attachments separate lists setting forth factual contentions which are areas of disagreement, categorized by reason

of disagreement and supported where appropriate by citation to the record but without argument;

3. Plaintiffs shall file their contentions of undisputed material facts in list form and without argument by 5:00 p.m. on August 19, 2013;
4. Defendants shall submit their contentions of undisputed material facts in list form and without argument by August 20 at 1 p.m.;
5. Each side shall file a response to the other side's contentions of undisputed material facts which sets forth, as to each numbered statement and in fewer than 10 words excluding citation to the record, whether the party: 1) agrees the statement is an undisputed material fact; 2) agrees the statement is an undisputed fact but contends the fact is immaterial; 3) contends the statement is a disputed fact and also immaterial; 4) contends the statement is not a factual matter but rather is a conclusion of law; or 5) such other summary of the nature of the disagreement. Each side shall file this response no later than 1:00 p.m. on August 21, 2013.

This the 19th day of August, 2013.



UNITED STATES DISTRICT JUDGE